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Donna N. Lampert

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

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July 22, 1996

**EX PARTE**

**BY HAND**

William F. Caton  
Acting Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: CC Docket No. 96-98; In the Matter of Implementation of the  
Local Competition Provisions in the Telecommunications Act of 1996


Dear Mr. Caton:

On July 22, 1996, Brenda L. Fox, Vice President - Federal Relations, Continental Cablevision, Inc., sent the attached letter to Dr. Robert Pepper, Chief, Office of Plans and Policy, regarding the above-referenced docket.

Pursuant to Section 1.1206(a)(1) of the Commission's Rules, two copies of this written document are attached for inclusion in the public record in the above-captioned proceedings.

Should you have any questions regarding this matter, please contact me.

Sincerely,



Donna N. Lampert

Attachment

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List ABCDE

212

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

William F. Caton

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cc: Chairman Reed E. Hundt  
Commissioner James H. Quello  
Commissioner Susan Ness  
Commissioner Rachelle B. Chong  
Regina Keeney  
A. Richard Metzger, Jr.  
Richard Welch  
James D. Schlichting  
James Nakahata  
James R. Coltharp  
James Casserly  
Daniel Gonzalez

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JUL 22 1996 Continental  
Cablevision®

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July 22, 1996

Dr. Robert Pepper  
Chief, Office of Plans and Policy  
Federal Communications Commission  
Room 822  
1919 M Street N.W.  
Washington, D.C. 20554

Re: Common Carrier Docket 96-98, In the Matter of Implementation of the Local  
Competition Provisions in the Telecommunications of 1996

Dear Dr. Pepper:

Thank you for the opportunity to discuss the crucial issues arising out of the FCC's local competition proceeding, especially in light of your busy schedule. As we discussed, Continental is extremely concerned about the implications that the definition of "local" traffic can have for the advent of facilities-based competition, particularly residential service competition, given the terminating access compensation arrangements for CLECs. These concerns arise principally due to the differences in network architecture and service areas that are likely to exist between ILECs and CLECs. At your suggestion, we offer these specific thoughts regarding this important issue.

As we mentioned, CLECs are likely to have different local service areas than ILECs due to the historical development of their networks. Consequently, the FCC should hold that CLECs should not be required to pay toll access charges to terminate their customers' calls on ILEC facilities within the CLECs' local calling areas. Indeed, if the Commission permits ILECs to impose access charges on calls rated by a CLEC as local, but which the ILEC treats as toll, it will in effect impose the ILEC geographic calling areas and rate plans on CLECs and thereby undermine competition by preventing competitors from exploiting their service areas to distinguish themselves in the competitive marketplace.

Even within some areas that ILECs themselves deem "local," they are seeking to impose access charges on CLECs. Many ILECs today offer expanded local calling area plans under relevant state tariffs that typically enable residential customers to pay an additional flat rate charge for calls within an area contiguous to the area initially deemed to be local. These "expanded local" areas, however, can encompass areas that are not deemed

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"local" for purposes of terminating access compensation arrangements for CLECs.<sup>1/</sup> Thus, a CLEC may be required to bear a toll terminating access rate as it seeks to compete with the so-called "local" services of the ILEC. Put simply, a CLEC could be required to pay more to the ILEC for terminating a call than the ILEC charges itself. As a result, these practices can inappropriately and unfairly impact the ability of CLECs to compete, particularly in the residential market that has traditionally been the focus of such plans.

In order to promote the fairness of local service competition, the FCC should clarify that local transport and termination charges apply within any area in which ILECs offer local, expanded local, extended area service and/or optional expanded local calling plans. If an ILEC offers such an optional expanded local calling plan, then CLEC services that originate and terminate within that same area should be subject only to the local terminating access rate rather than the switched exchange access rate. In this regard, we suggest that the Commission draw upon experiences to date whereby the definition of "local" has been specifically defined to encompass all such plans.

For example, in Section 364.02(2) of Florida Statutes governing Telecommunications Companies, "Basic Local Telecommunications Service" is defined to mean "voice-grade, flat-rate residential and flat-rate single-line business local exchange services which provide dial tone, local usage necessary to place unlimited calls within a local exchange area, dual tone multifrequency dialing.... For a local telecommunications company, such term shall include any extended area service routes and extended calling service area...."<sup>2/</sup> Accordingly, in the December 7, 1995 Interconnection Agreement between BellSouth and Continental, it is acknowledged that "the exchange of traffic on BellSouth's Extended Area Service, Extended Calling service and other local calling routes shall be considered local traffic" with compensation to be determined solely on that basis.<sup>3/</sup>

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<sup>1/</sup> Unlike Extended Area Service ("EAS") plans, which are themselves deemed local for all purposes (and are therefore not optional expanded local calling plans), these plans are optional and can therefore result in the situation whereby two neighboring ILEC customers in the same community can have different "local" areas.

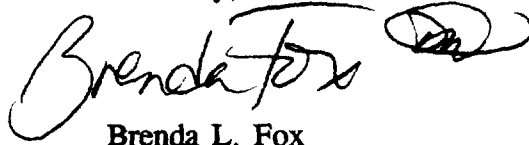
<sup>2/</sup> Florida Statutes 1995, Telecommunications Companies, Chapter 364, Section 364.02(2) (Definitions).

<sup>3/</sup> See Stipulation and Agreement of BellSouth and Continental et al., December 7, 1995 at p.6, paragraph 4.

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We remain committed to providing high quality competitive local telephone services. By ensuring that we are not disadvantaged by the utilization of ILEC-imposed definitions of "local" service areas, the FCC can assist in promoting the robust facilities-based competition that is the premise of the Telecommunications Act of 1996.

Sincerely,

A handwritten signature in black ink, appearing to read "Brenda Fox", followed by a circular flourish or stamp.

Brenda L. Fox  
Vice President, Federal Relations

cc: Chairman Reed E. Hundt  
Commissioner James H. Quello  
Commissioner Susan Ness  
Commissioner Rachelle B. Chong  
Gina Keeney  
A. Richard Metzger, Jr.  
Richard Welch  
James Schlichting  
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